

Remarks

Reconsideration of this Application is respectfully requested. Claims 1-6 and 8 are pending in the application, with 1 and 8 being the independent claims.

Based on the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejection of Claims 1-5 Under 35 U.S.C. § 103

In paragraph 2, on page 2 of the Office Action, the Examiner rejected claims 1-5 under 35 U.S.C. § 103(a) for allegedly being unpatentable over US Patent No. 5,568,023 to Grayer et al. in view of US Patent No. 5,965,991 to Koike et al., US Patent No. 6,175,172 to Bakholdin et al., and US Patent No. 6,487,096 to Gilbreth et al. As acknowledge by the Examiner on page 3 of the Office Action, claims 1-5 are patentable over Grayer et al., Koike et al., and Bakholdin et al., alone or in combination. The Examiner applies Gilbreth et al. to make up for the deficiencies of Grayer et al., Koike et al., and Bakholdin et al. Applicant respectfully traverses this rejection.

Gilbreth et al. is disqualified as prior art against the claimed invention, and thus may not be used to reject claims 1-5. Under 35 U.S.C. § 103(c), for applications filed on or after November 29, 1999, including continuing applications filed under 37 CFR 1.53(b), subject matter which is prior art under 35 U.S.C. 103 via 35 U.S.C. 102(e), (f), or (g) is disqualified as prior art against a claimed invention if that subject matter and the claimed invention

"were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." As evidenced by the attached assignments, Gilbreth et al. is so disqualified. The present application and US Patent No. 6,487,096 to Gilbreth et al. were, at the time the invention of the present application was made, owned by Capstone Turbine Corporation or subject to an obligation of assignment to Capstone Turbine Corporation.

Because Gilbreth et al. may not be used to reject claims 1-5, claims 1-5 are allowable over the applied references. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection of Claims 6 and 8 Under 35 U.S.C. § 103

In paragraph 3, on page 3 of the Office Action, the Examiner rejected claims 6 and 8 under 35 U.S.C. § 103(a) for allegedly being unpatentable over Grayer et al., Koike et al., Bakholdin et al., and Gilbreth et al. as applied to claims 1 and 4, and further in view of US Patent No. 5,806,617 to Yamaguchi. Applicant respectfully traverses this rejection.

For the reason noted above, Gilbreth et al. is disqualified as prior art against the claimed invention, and thus may not be used to reject claims 6 and 8. Yamaguchi does not make up for the deficiencies of Grayer et al., Koike et al., and Bakholdin et al. Thus, claims 6 and 8 are allowable over the applied references. Reconsideration and withdrawal of this rejection are respectfully requested.

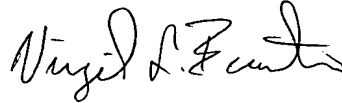
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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